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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

MASS MEDIA BUREAU'S COMMENTS ON  
JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT  
PETITION FOR LEAVE TO AMEND AND  
MOTION FOR SUMMARY DECISION

(Copy) Filed a Joint Petition for Removal of Settlement

for reimbursement by Rural of Group's costs, not to exceed \$5,000. In support of the claimed reimbursement, Group submits an accounting of expenses which reflects payment of an FCC filing fee of \$1,800. Group also provides an itemization by its counsel which establishes that Group incurred legitimate and prudent legal expenses in the amount of \$4,236.

3. The joint request and supporting materials submitted by the parties are otherwise in conformity with the requirements of Section 73.3525 of the Commission's Rules, which implements Section 311(c)(3) of the Communications Act of 1934, as amended. Specifically, they have established that approval of the agreement is in the public interest and that their applications were not filed for an improper purpose. Group has also established its right to reimbursement in the amount of \$5,000.

4. Rural's petition for leave to amend is filed in response to paragraphs 6, 7 and 9,<sup>2</sup> of the Hearing Designation Order ("HDO"), in this proceeding, DA 93-322, released April 7, 1993. Rural's amendment explains, in response to paragraph 5, that Rural responded in the negative to Item 7, of Section II of FCC Form 340, with respect to pledges of stock, because Rural is a non-stock corporation. In response to paragraph 6, Rural

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<sup>2</sup> A Hearing Designation Order released March 8, 1993, was vacated in a later HDO in this proceeding. The paragraph numbers referred to by Rural have been adjusted to represent the corresponding paragraph numbers in the new HDO.

explains that its application, in Item 9 of Section V-B, erroneously provided the height above mean sea level of its tower rather than the height above ground. Finally, Rural provides the environmental impact information required by paragraph 9. Rural, however, did not comply with the further requirement of paragraph 9 that it file a copy of its amendment with the Chief, Audio Services Division.<sup>3</sup>

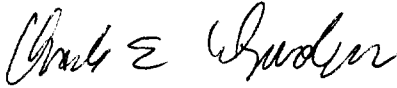
5. In its Motion for Summary Decision, Rural seeks summary decision in its favor of the environmental and air hazard issues specified in the HDO. The Bureau's engineering staff has reviewed Rural's submission and supports summary decision on the air hazard issue. As Rural notes, the air hazard issue was specified based on an error in tower height by Rural which has now been corrected. The Bureau does not support a grant of summary decision on the environmental issue. As noted, Rural has not filed a copy of its amendment with the Chief, Audio Services Division as required by the HDO. Until Rural does so and until the Chief Audio Services Division notifies the Presiding Judge that the contingent environmental issue may be deleted, Rural's application may not be granted.


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<sup>3</sup> Rural erroneously filed its petition with the Chief, Data Management Staff, rather than with the Chief, Audio Services Division. Undersigned counsel has informed counsel for Rural of the need to refile its amendment and has been informed that Rural will do so.

6. In sum, the Bureau supports approval of the settlement agreement, acceptance of the Rural amendment, summary decision in Rural's favor of the air hazard issue, grant of the Rural application upon deletion of the contingent environmental issue and dismissal of the Group application with reimbursement in the amount of \$5,000.

Respectfully submitted,  
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April 19, 1993

**CERTIFICATE OF SERVICE**

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 19th day of April 1992, sent by regular United States mail; U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Comments on Joint Request for Approval of Settlement Agreement, Petition for Leave to Amend and Motion for Summary Decision"** to:

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